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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR    | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|-------------------------|---------------------|------------------|
| 10/624,017  | 07/21/2003  | Gary Mitchell Davenport | IAM 0574 PA         | 5722             |
| 27752   | 7590        | 12/16/2004              |                     |                  |
| THE PROCTER & GAMBLE COMPANY<br>INTELLECTUAL PROPERTY DIVISION<br>WINTON HILL TECHNICAL CENTER - BOX 161<br>6110 CENTER HILL AVENUE<br>CINCINNATI, OH 45224 |             |                         | EXAMINER            | DAVIS, RUTH A    |
|   |             |                         | ART UNIT            | PAPER NUMBER     |
|   |             |                         | 1651                |                  |

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                 |                  |
|------------------------------|-----------------|------------------|
| <b>Office Action Summary</b> | Application No. | Applicant(s)     |
|                              | 10/624,017      | DAVENPORT ET AL. |
| Examiner                     | Art Unit        |                  |
| Ruth A. Davis                | 1651            |                  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 08 October 2004.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 23-36 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 23-36 is/are rejected.  
 7) Claim(s) 27,28 and 34 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

|   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's response filed October 8, 2004 states that a preliminary amendment canceling claims 1 – 22 and presenting claims 23 – 36 was filed prior to the previous office action containing a Restriction/Election Requirement. Applicant additionally submitted a copy of the preliminary amendment, which has been entered into the case. Claims 1 – 22 have been canceled; claims 23 – 36 are pending.

Since claims 23 – 36 are all drawn to a method for controlling fecal hair excretion and trichobezoar formation, the restriction requirement is moot, and is therefore withdrawn. (It is noted that claims 23 – 36 correspond to group II). Claims 23 – 36 are pending and have been considered on the merits.

### ***Claim Objections***

1. Claims 27, 28 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 23 – 26, 30 – 33 and 36 are rejected under 35 U.S.C. 102(a) and 102(e) as being anticipated by Reinhart et al. (US 5965175 A).

Applicant claims a process for controlling fecal hair excretion and trichobezoar formation in an animal, the process comprising feeding the animal a composition comprising about 10 – 42% crude protein, 4 – 30% fat, 1 – 25% total dietary fiber and a supplemental fiber source. Specifically the composition comprises about 1 – 13% supplemental fiber source. The supplemental fiber source is selected from at least one fermentable fiber; a blend of at least two fermentable fibers; a blend of at least one fermentable fiber and a cellulose ether; a blend of at least one fermentable fiber, a cellulose ether and mineral oil; and a blend of at least one fermentable fiber and at least one non-fermentable fiber. Specifically, the fermentable fiber is selected from beet pulp, gum arabic, FOS and blends thereof; or beet pulp; and is present at about 6 – 12%; or 10 – 12% supplemental fiber. More specifically, the supplemental fiber is about 6% beet pulp, about 2% gum arabic, about 1.5% FOS; or about 12% beet pulp.

Reinhart et al. teaches methods for increasing colonic blood flow in animals, the method comprising feeding an animal a composition comprising a pet food formula and 1 – 11% fermentable fibers (or supplemental fiber) (col.1 line 58-67). Specifically, the pet food formula comprises about 30% crude protein, 20% fat and 10% total dietary fiber (col.3 line 57-63). The fermentable fibers are selected from beet pulp, gum arabic, FOS and mixtures thereof (col.2 line 21-28). Reinhart et al. teaches the compositions comprising 6% beet pulp, 1.5% FOS and 2% gum talha (a form of gum arabic) (Table 1).

Although Reinhart et al. does not teach that the method is effective for controlling fecal hair excretion and trichobezoar formation, the method steps are the same. In the instant case the claims recite feeding the same composition, in the same amounts, to the same population, as disclosed in the prior art. Because the same composition is fed to the same population in the same amount, the result of that feeding must necessarily be the same disclosed by applicant. Otherwise applicant's invention could not function as disclosed. Moreover, by practicing the methods of Reinhart et al., one would inherently be practicing the claimed method of controlling fecal hair excretion and trichobezoar formation.

While Reinhart et al. does not specifically teach the composition comprises about 12% beet pulp, Reinhart et al. does teach about 1 – 11% supplemental, fermentable fibers wherein the fiber is beet pulp. The claimed limitation "about 12% beet pulp" allows for amounts slightly above and below 12%. Reinhart et al. also provides for amounts slightly above 11%, by reciting "about 1 – 11%". Therefore, one in the art would reasonably expect that about 1 – 11% beet pulp is sufficient specificity to constitute about 12% beet pulp. (See MPEP 2131.03 II).

Therefore, the reference anticipates the claimed subject matter.

4. Claims 23 – 26, 30 – 33 and 36 are rejected under 35 U.S.C. 102(e) as being anticipated by Sunvold et al. (US 6039952 A).

Applicant claims a process for controlling fecal hair excretion and trichobezoar formation in an animal, the process comprising feeding the animal a composition comprising about 10 – 42% crude protein, 4 – 30% fat, 1 – 25% total dietary fiber and a supplemental fiber source. Specifically the composition comprises about 1 – 13% supplemental fiber source. The supplemental fiber source is selected from at least one fermentable fiber; a blend of at least two fermentable fibers; a blend of at least one fermentable fiber and a cellulose ether; a blend of at least one fermentable fiber, a cellulose ether and mineral oil; and a blend of at least one fermentable fiber and at least one non-fermentable fiber. Specifically, the fermentable fiber is selected from beet pulp, gum arabic, FOS and blends thereof; or beet pulp; and is present at about 6 – 12%; or 10 – 12% supplemental fiber. More specifically, the supplemental fiber is about 6% beet pulp, about 2% gum arabic, about 1.5% FOS; or about 12% beet pulp.

Sunvold teaches a method for improving clinical signs in an animal with renal disease, the method comprising feeding the animal a composition comprising about 10 – 32% crude protein, 8 – 20% fat, 3 – 25% total dietary fiber, and about 1 – 11% fermentable fiber (or supplemental fiber) (col.2 line 4-15). The fermentable fibers are selected from beet pulp, gum arabic, FOS and mixtures thereof (col.2 line 32-41).

Although Sunvold does not teach that the method is effective for controlling fecal hair excretion and trichobezoar formation, the method steps are the same. In the instant case the claims recite feeding the same composition, in the same amounts, to the same population, as

disclosed in the prior art. Because the same composition is fed to the same population in the same amount, the result of that feeding must necessarily be the same disclosed by applicant. Otherwise applicant's invention could not function as disclosed. Moreover, by practicing the methods of Sunvold, one would inherently be practicing the claimed method of controlling fecal hair excretion and trichobezoar formation.

While Sunvold does not specifically teach the composition comprises about 12% beet pulp; or 6% beet pulp, about 2% gum arabic, about 1.5% FOS; Sunvold does teach about 1 – 11% supplemental, fermentable fibers wherein the fiber is beet pulp, gum arabic, FOS and mixtures thereof. The claimed limitation "about 12% beet pulp" allows for amounts slightly above and below 12%. The claimed limitation "about 6% beet pulp, about 2% gum arabic, about 1.5% FOS" allows for amounts slightly above and below the recited amounts. Sunvold also provides for amounts slightly above 11%, by reciting "about 1 – 11%". Therefore, one in the art would reasonably expect that about 1 – 11% of fermentable fibers selected from beet pulp, gum arabic, FOS and mixtures thereof is sufficient specificity to constitute about 12% beet pulp; or about 6% beet pulp, about 2% gum arabic, and about 1.5% FOS. (See MPEP 2131.03 II).

Therefore, the reference anticipates the claimed subject matter.

5. Claims 23 – 26, 29 – 33 and 35 – 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Reinhart (US 5616569 A).

Applicant claims a process for controlling fecal hair excretion and trichobezoar formation in an animal, the process comprising feeding the animal a composition comprising about 10 – 42% crude protein, 4 – 30% fat, 1 – 25% total dietary fiber and a supplemental fiber source.

Specifically the composition comprises about 1 – 13% supplemental fiber source. The supplemental fiber source is selected from at least one fermentable fiber; a blend of at least two fermentable fibers; a blend of at least one fermentable fiber and a cellulose ether; a blend of at least one fermentable fiber, a cellulose ether and mineral oil; and a blend of at least one fermentable fiber and at least one non-fermentable fiber. Specifically, the fermentable fiber is selected from beet pulp, gum arabic, FOS and blends thereof; beet pulp; or beet pulp and cellulose; and is present at about 6 – 12%; or 10 – 12% supplemental fiber. More specifically, the supplemental fiber is about 6% beet pulp, about 2% gum arabic, about 1.5% FOS; about 6% beet pulp and about 6.5% cellulose; or about 12% beet pulp.

Reinhart teaches a process for treating GI disorders in an animal, the process comprising feeding an animal a composition comprising about 30% crude protein, about 20% fat, about 10% total dietary fiber, and about 3 – 9% of a supplemental, fermentable fiber (col.2). The supplemental fiber may be beet pulp, gum arabic, FOS, cellulose and mixtures thereof (examples).

Although Reinhart et al. does not teach that the method is effective for controlling fecal hair excretion and trichobezoar formation, the method steps are the same. In the instant case the claims recite feeding the same composition, in the same amounts, to the same population, as disclosed in the prior art. Because the same composition is fed to the same population in the same amount, the result of that feeding must necessarily be the same disclosed by applicant. Otherwise applicant's invention could not function as disclosed. Moreover, by practicing the methods of Reinhart et al., one would inherently be practicing the claimed method of controlling fecal hair excretion and trichobezoar formation.

While Reinhart does not specifically teach the compositions comprise the claimed amounts of each fiber, Reinhart does teach about 3 – 9% supplemental, fermentable fibers wherein the fiber is beet pulp, gum arabic, FOS cellulose and mixtures thereof. Since the claims each recite “about” before the recited ranges and amounts, the ranges allow for slightly more or less than the recited amount. Specifically, “about 10 – 12% supplemental fiber” allows for slightly below and above the range. The claimed limitation “about 6% beet pulp, about 2% gum arabic, about 1.5% FOS” allows for amounts slightly above and below the recited amounts. The limitation “about 6% beet pulp and about 6.5% cellulose” allows for amounts slightly above and below the recited amounts. Finally, “about 12% beet pulp” allows for amounts slightly above and below 12%. Reinhart also provides for amounts slightly below and above 3 - 9%, by reciting “about 3 – 9%”. Therefore, one in the art would reasonably expect that about 3 – 9% of fermentable fibers selected from beet pulp, gum arabic, FOS, cellulose and mixtures thereof is sufficient specificity to constitute about 6% beet pulp, about 2% gum arabic, and about 1.5% FOS; about 6% beet pulp and about 6.5% cellulose; and about 12% beet pulp; or. (See MPEP 2131.03 II).

Therefore, the reference anticipates the claimed subject matter.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reinhart et al. Applicant claims a process for controlling fecal hair excretion and trichobezoar formation in an animal, the process comprising feeding the animal a composition comprising about 10 – 42% crude protein, 4 – 30% fat, 1 – 25% total dietary fiber and a supplemental fiber source, wherein the supplemental fiber source is about 12% beet pulp.

Reinhart et al. teaches methods for increasing colonic blood flow in animals, the method comprising feeding an animal a composition comprising a pet food formula and 1 – 11% fermentable fibers (or supplemental fiber) (col.1 line 58-67). Specifically, the pet food formula comprises about 30% crude protein, 20% fat and 10% total dietary fiber (col.3 line 57-63) and the fermentable fibers are selected from beet pulp (col.2 line 21-28).

Although Reinhart et al. does not teach that the method is effective for controlling fecal hair excretion and trichobezoar formation, the method steps are the same. In the instant case the claims recite feeding the same composition, in the same amounts, to the same population, as

disclosed in the prior art. Because the same composition is fed to the same population in the same amount, the result of that feeding must necessarily be the same disclosed by applicant. Otherwise applicant's invention could not function as disclosed. Moreover, by practicing the methods of Reinhart et al., one would inherently be practicing the claimed method of controlling fecal hair excretion and trichobezoar formation.

Reinhart et al. does not specifically teach the method wherein 12% beet pulp is fed to the animal. However, Reinhart et al. does teach fermentable fibers such as beet pulp can be fed at about 1 – 11%. Since the claimed limitation "about 12% beet pulp" allows for amounts slightly above and below 12%, and Reinhart et al. also provides for amounts slightly above 11%, by reciting "about 1 – 11%", it would have been within the purview of one of ordinary skill in the art to feed about 12% beet pulp to the animals of Reinhart et al. in following the methods of Reinhart et al. Generally, differences in concentration will not support the patentability of subject matter encompassed by the prior art unless there is evidence indicating such concentration is critical. "[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). "The normal desire of scientists or artisans to improve upon what is already generally known provides the motivation to determine where in a disclosed set of percentage ranges is the optimum combination of percentages." (MPEP 2144.05(II)(A)). Moreover, at the time of the claimed invention, one of ordinary skill in the art would have been motivated by Reinhart et al. to optimize the amounts of fermentable fiber (specifically beet pulp), with a reasonable expectation for successfully practicing the methods of Reinhart et al.

9. Claims 33 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sunvold.

Applicant claims a process for controlling fecal hair excretion and trichobezoar formation in an animal, the process comprising feeding the animal a composition comprising about 10 – 42% crude protein, 4 – 30% fat, 1 – 25% total dietary fiber and a supplemental fiber source. The supplemental fiber source is about 6% beet pulp, about 2% gum arabic, and about 1.5% FOS; or about 12% beet pulp.

Sunvold teaches a method for improving clinical signs in an animal with renal disease, the method comprising feeding the animal a composition comprising about 10 – 32% crude protein, 8 – 20% fat, 3 – 25% total dietary fiber, and about 1 – 11% fermentable fiber (or supplemental fiber) (col.2 line 4-15). The fermentable fibers are selected from beet pulp, gum arabic, FOS and mixtures thereof (col.2 line 32-41).

Although Sunvold does not teach that the method is effective for controlling fecal hair excretion and trichobezoar formation, the method steps are the same. In the instant case the claims recite feeding the same composition, in the same amounts, to the same population, as disclosed in the prior art. Because the same composition is fed to the same population in the same amount, the result of that feeding must necessarily be the same disclosed by applicant. Otherwise applicant's invention could not function as disclosed. Moreover, by practicing the methods of Sunvold, one would inherently be practicing the claimed method of controlling fecal hair excretion and trichobezoar formation.

Sunvold does not specifically teach the method wherein 6% beet pulp, about 2% gum arabic, about 1.5% FOS; or about 12% beet pulp is fed to the animal. However, Sunvold does teach about 1 – 11% supplemental, fermentable fibers wherein the fiber is beet pulp, gum arabic, FOS and mixtures thereof. The claimed limitation “about 12% beet pulp” allows for amounts slightly above and below 12%. The claimed limitation “about 6% beet pulp, about 2% gum arabic, about 1.5% FOS” allows for amounts slightly above and below the recited amounts. Sunvold also provides for amounts slightly above 11%, by reciting “about 1 – 11%”. At the time of the claimed invention, it would have been well within the purview of one of ordinary skill in the art to feed the claimed amounts of fibers to the animals of Sunvold, in following the methods of Sunvold. Furthermore, it would have been obvious to one of ordinary skill in the art to optimize the amounts of each fiber, since Sunvold teaches a variety of amounts and combinations of the instant fibers. Generally, differences in concentration will not support the patentability of subject matter encompassed by the prior art unless there is evidence indicating such concentration is critical. “[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation.” *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). “The normal desire of scientists or artisans to improve upon what is already generally known provides the motivation to determine where in a disclosed set of percentage ranges is the optimum combination of percentages.” (MPEP 2144.05(II)(A)). Moreover, at the time of the claimed invention, one of ordinary skill in the art would have been motivated by the teachings of Sunvold to optimize the amounts of fibers as a matter of routine experimentation.

10. Claims 32 – 33 and 35 – 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reinhart.

Applicant claims a process for controlling fecal hair excretion and trichobezoar formation in an animal, the process comprising feeding the animal a composition comprising about 10 – 42% crude protein, 4 – 30% fat, 1 – 25% total dietary fiber and a supplemental fiber source. The supplemental fiber source is present at about 10 – 12%; is about 6% beet pulp, about 2% gum arabic, and about 1.5% FOS; is about 6% beet pulp and about 6.5% cellulose; or is about 12% beet pulp.

Reinhart teaches a process for treating GI disorders in an animal, the process comprising feeding an animal a composition comprising about 30% crude protein, about 20% fat, about 10% total dietary fiber, and about 3 – 9% of a supplemental, fermentable fiber (col.2). The supplemental fiber may be beet pulp, gum arabic, FOS, cellulose and mixtures thereof (examples).

Although Reinhart does not teach that the method is effective for controlling fecal hair excretion and trichobezoar formation, the method steps are the same. In the instant case the claims recite feeding the same composition, in the same amounts, to the same population, as disclosed in the prior art. Because the same composition is fed to the same population in the same amount, the result of that feeding must necessarily be the same disclosed by applicant. Otherwise applicant's invention could not function as disclosed. Moreover, by practicing the methods of Reinhart, one would inherently be practicing the claimed method of controlling fecal hair excretion and trichobezoar formation.

Reinhart does not specifically teach the method wherein the claimed amounts of supplemental fibers are fed to the animal. However, Reinhart does teach about 3 – 9% supplemental, fermentable fibers wherein the fiber is beet pulp, gum arabic, FOS, cellulose and mixtures thereof. The claimed limitations each allow for amounts slightly above and below the recited amounts since they each recite “about” before the amounts. Specifically, “about 10 – 12%” allows for slightly below 10%; the limitations “about 6% beet pulp, about 2% gum arabic, about 1.5% FOS” and “about 6% beet pulp and about 6.5% cellulose” allows for amounts slightly above and below the recited amounts; and “about 12% beet pulp” allows for amounts slightly above and below 12%. Reinhart also provides for amounts slightly above 9%, by reciting “about 3 – 9%”. At the time of the claimed invention, it would have been well within the purview of one of ordinary skill in the art to feed the claimed amounts of fibers to the animals of Reinhart, in following the methods of Reinhart. Furthermore, it would have been obvious to one of ordinary skill in the art to optimize the amounts of each fiber, since Reinhart teaches a variety of amounts and combinations of the instant fibers (examples). Generally, differences in concentration will not support the patentability of subject matter encompassed by the prior art unless there is evidence indicating such concentration is critical. “[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation.” In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). “The normal desire of scientists or artisans to improve upon what is already generally known provides the motivation to determine where in a disclosed set of percentage ranges is the optimum combination of percentages.” (MPEP 2144.05(II)(A)).

Moreover, at the time of the claimed invention, one of ordinary skill in the art would have been

motivated by the teachings of Reinhart to optimize the amounts of fibers as a matter of routine experimentation.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth A. Davis whose telephone number is 571-272-0915. The examiner can normally be reached on M-H (7:00-4:30); altn. F (7:00-3:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached on 571-272-0926. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ruth A. Davis  
December 2, 2004  
AU 1651

